

Remarks/Arguments

Reconsideration of the above-identified application in view of the present amendment is respectfully requested.

By the present amendment, claims 14-17 and 19 have been amended. Claims 18 and 20 have been canceled. Claim 14 was amended to delete the term variant and recite that the TIMP3 fragment includes SEQ ID NO: 9. Claim 15 was amended to delete the term substantially. Claim 16 was amended to indicate that the fragment is free of SEQ ID NO: 3. Claim 17 was amended to recite that the fragment is free of metalloproteinase inhibiting activity. Claim 19 was amended to recite that the fragment is linked to a therapeutic agent.

Below is a discussion of the 35 U.S.C. 112, first paragraph, rejection of claims 14-21, of the 35 U.S.C. 112, second paragraph, rejection of claims 15-17, and 19, and the 35 U.S.C. 102(a) rejection of claims 14-15, 18-21.

1. 35 U.S.C. 112 rejection of claims 14-21.

Claim 14-21 were rejected under 35 USC 112, first paragraph, as not meeting the written description requirement and being non-enabling. The Office Action argues that the term variant is not identified or defined in the specification and the claims are not enabled for the term variant. Additionally, the Office Action argues that the claims also do not recite that the cells do express VEGFR2.

As discussed above, claim 14 was amended. Amended claim 14 recites a method of inhibiting VEGF binding to the VEGF receptor VEGFR2. In the method, a cell population that includes cells that express VEGFR1 (FLT-1) and cells that express VEGFR2 are contacted with a composition comprising a biologically

effective amount of at least one of TIMP3 or a fragment of TIMP3. The fragment of TIMP3 comprises SEQ ID NO: 9.

Amended claim 14 has deleted the term variant and included the limitation of a TIMP3 fragment that comprises SEQ ID NO: 9. Additionally, claim 14 was amended to recite that the cell population includes cells that express VEGFR2.

In view of the present amendment, the Applicant respectfully requests reconsideration and withdrawal of the instant rejection.

2. 35 U.S.C. 112 rejection of claims 15-17 and 19.

Claims 15-17 and 19 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and claim the subject matter that applicant regards as his invention. The Office Action argues that the metes and bounds of claims 15-17 are unclear as these claims include the term “substantially” free. The Office Action also argues that the term “N-terminal domain” in claim 16 is unclear. The Office Action further argues that the term “operatively” in claim 19 is not defined in the specification.

The present amendment deletes the term “substantially” from claims 15-17, replaces the term N-terminal domain in claim 16 with SEQ ID NO: 3, and removes the term “operatively” from claim 19. In view of the present amendment, the Applicant respectfully requests reconsideration and withdrawal of the instant rejection.

3. **35 U.S.C. 102 rejection of claims 14-15 and 18-21**

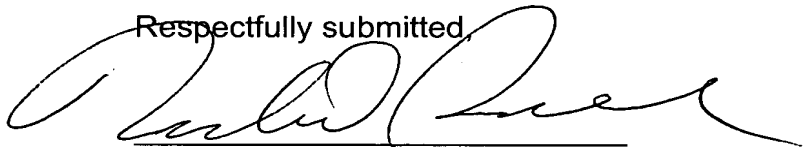
Claims 14-15 and 18-21 were rejected 35 USC 102 as being anticipated by Qi et al. Claims 14-15 and 18-21 are patentable over Qi et al. because Qi et al. discloses the applicant's own work within one year before the application filing date.

Attached is a 37 CFR 1.132 declaration from the inventor that indicates:

(1) the present application was filed on March 19, 2004; (2) the present application claims priority from US Provisional application 60/456,768, filed March 19, 2003; (3) the Qi et al. article was published May 2002; and (4) the inventor of the present application is an author of Qi et al. and the sole inventor of the subject matter listed in article. Accordingly, Qi et al. is not prior and withdrawal of the 35 USC 102(a) rejection over Qi et al. is respectfully requested.

Please charge any deficiency or credit any overpayment in the fees for this matter to our Deposit Account No. 20-0090

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard A. Sutkus', written over a horizontal line.

Richard A. Sutkus
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